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AUG 31 2007

OFFICE OF PETITIONS

In re Application of
Murakami et al.
Application No. 09/814,607
Filed: March 22, 2001
Attorney Docket No: 9437.15

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2007, to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on March 26, 2003. The final Office Action set a three (3) month shortened statutory period for reply. A three month extension of time was obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on June 27, 2003. A Notice of Abandonment was mailed on October 1, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37

CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks item (3).

As to item (3), although petitioner has provided a statement of unintentional delay, this application was abandoned for almost three years before the filing of the instant petition. Further review of the record shows that prior to the mailing of the Notice of abandonment former attorney Krieger was contacted. The October 3, 2003 interview summary shows that attorney Krieger informed the examiner that "no reply was being sent in response to the outstanding action and that no reply was going to be sent".

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137: (A) the delay in reply that originally resulted in the abandonment; (B) the delay in filing an initial petition pursuant to 37 CFR 1.137 to revive the application; and (C) the delay in filing a grantable petition pursuant to 37 CFR 1.137 to revive the application.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

Petitioner should provide further information regarding the cause of the abandonment and the delay in filing a grantable petition.

Further Correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300

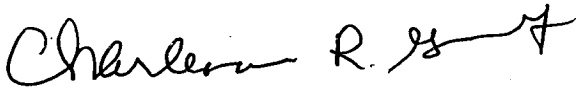
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Telephone inquiries concerning this matter should be directed to the undersigned at
(571) 272-3215.

A handwritten signature in cursive script, appearing to read "Charlema R. Grant", followed by a stylized flourish.

Charlema R. Grant
Petitions Attorney
Office of Petitions